



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/614,739 | 07/07/2003 | Thomas L. DeFazio | ISR-PAT/CTR-ICON | 6096 |

24390 7590 02/22/2005

LUCASH, GESMER & UPDEGROVE, LLP
40 BROAD ST
SUITE 300
BOSTON, MA 02109

| EXAMINER |
|----------|
|----------|

YEAGLEY, DANIEL S

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3611

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/614,739

Applicant(s)

DEFAZIO ET AL.

Examiner

Daniel Yeagley

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32,39-41,50-52 and 54-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32,39-41,50-52 and 54-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 32, 39 – 41, 50 – 52 and 54 – 56 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown et al '839.

Brown shows a wheeled structure with first and second wheel sets rotatably attached to side portions of a body 11 and includes a tail element 66 pivotally coupled by an articulation element to a portion of the body which provides support when the wheeled structure transverses an inclined terrain as when ascending or descending stairs (figure 1), a drive module 71 being coupled to the tail element to controls the movement of the tail element between a first stowed position (figure 1; dashed lines) and a second position which makes selective contact with a ground plane (stairs), wherein the articulation element is a pivot/hinge being a flexible body portion (element 73 and pivot joints), and wherein the first and second set of wheel elements have no overlap between adjacent wheel element 17 or each other and wherein an intermediate wheel element 41 is capable of contacting the ground with the first and second wheel elements being selectively in contact with the ground (column 2, line 57-58), such that each first and second set of wheel elements is arrayed with a selected degree of rocker of the wheel elements which would enable the wheeled structure to turn-in-place as read in column 2, line 57-58, such

Art Unit: 3611

that the intermediate wheel would always contact the ground plane and the first and second end wheel elements could be selectively in contact with the ground plane (column 2).

Response to Arguments

3. Applicant's arguments filed 12/9/04 have been fully considered but they are not persuasive. Brown as stated above is considered readable on the instant claims as broadly read as now claimed, such that Brown does disclose a wheeled structure having an array of wheel elements that have a selected degree of rocker of the wheel elements coupled to the body which would enable the wheeled structure to turn-in-place (column 2, line 57-58) and wherein an intermediate wheel element is capable of contacting the ground with a first and a second wheel element being selectively in contact with the ground as broadly claimed.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 3611

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kobayashi '797 shows a wheeled structure having first and second sets of wheel elements with an intermediate wheel element that always contacts the ground with the first and second wheel element being selectively in contact with the ground.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Yeagley whose telephone number is **703 - 305 - 0838**.

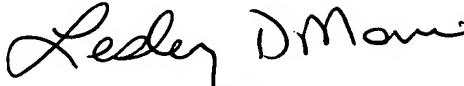
The examiner can normally be reached on Mon. - Fri; first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D Morris can be reached on **703 - 308 - 0629**. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

In the near future; because of a pending move of the examining corps to a new campus, the examiner and SPE telephone numbers will change to **571 - 272 - 6655** and **571 - 272 - 6651**; respectively.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D.Y.


LESLEY D. MORRIS
SUPPLEMENTARY PATENT EXAMINER
TECHNOLOGY CENTER 3600